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10 Attorneys for Defendants  
11 BAYVIEW LOAN SERVICING, LLC,  
12 AKA BAYVIEW AND MARILYN CORO

13

14 UNITED STATES DISTRICT COURT  
15 SOUTHERN DISTRICT OF CALIFORNIA

16

17 PAMELA CHYBA

18 Plaintiff,

19 vs.

20 BAYVIEW LOAN SERVICING,  
21 LLC, AKA BAYVIEW; DAVID  
22 ERTEL; AND MARILYN CORO,

23 Defendants.

24 CASE NO. 3:14-cv-01415-BEN-BLM

25 DEFENDANT BAYVIEW LOAN  
26 SERVICING, LLC'S NOTICE OF  
27 MOTION AND MOTION FOR  
28 SANCTIONS PURSUANT TO F.R.C.P  
37(d)

Judge: Roger T. Benitez

Date: July 18, 2016

Time: 10:30 a.m.

Room: 5A

1 TO ALL PARTIES AND TO THEIR COUNSEL OF RECORD:

2 PLEASE TAKE NOTICE THAT on July 18, 2016, at 10:30 a.m., or as soon  
3 thereafter as counsel may be heard, in Courtroom 5A, located at 221 West Broadway,  
4 San Diego, CA 92101, Defendant BAYVIEW LOAN SERVICING, LLC, AKA  
5 BAYVIEW (“Bayview”) will and hereby does move the Court, pursuant to Rule 37(d)  
6 of the Federal Rules of Civil Procedure, for sanctions against plaintiff Pamela Chyba  
7 (“Plaintiff”) for failing to appear for deposition.

8 Please take notice that Bayview is seeking monetary sanctions in the amount of  
9 \$1,500.00, as well as seeking dismissal of Plaintiff’s TCPA claim pursuant to Rule  
10 37(d)(3) and 37(b)(2)(A)(i)-(v), which provides that: (i) the court may order that  
11 designated facts be taken as established for purposes of the action, as the prevailing  
12 party claims; (ii) the court may prohibit the disobedient party from supporting or  
13 opposing designated claims or defenses, or from introducing designated matters in  
14 evidence; (iii) the court may strike pleadings in whole or in part; (iv) the court may  
15 stay further proceedings until the order is obeyed; (v) the court may dismiss the action  
16 or proceeding in whole or in part; and (vi) the court may render a default judgment  
17 against the disobedient party.

18 This Motion is based on this Notice of Motion and Motion, Memorandum of  
19 Points and Authorities in Support of Motion, the Declaration of Cathy Knecht  
20 Robinson, the pleadings and papers on file in this action, and upon such oral argument  
21 as may be presented at the hearing on this Motion.

22  
23 BARRY, GARDNER & KINCANNON,  
24 A Professional Corporation

25 Dated: June 6, 2016

By: /s/ Jeffrey B. Gardner, Esq.

26 Jeffrey B. Gardner, Esq.

27 Cathy Knecht Robinson, Esq.

28 Attorneys for Defendants

BAYVIEW LOAN SERVICING, LLC  
and MARILYN CORO

## PROOF OF SERVICE

I am employed in the County of San Diego, State of California. I am over the age of 18 and not a party to the within action. My business address is 2214 Faraday Avenue, Carlsbad, California, 92008.

The foregoing document described as DEFENDANTS BAYVIEW LOAN SERVICING, LLC AND MARILYN CORO'S NOTICE OF MOTION AND MOTION FOR SANCTIONS PURSUANT TO F.R.C.P 37(d) will be served on the interested parties in this action as follows:

I. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (“NEF”) – The foregoing document will be served by the court via NEF and hyperlink to the document. As of June 6, 2016, the following are those that are currently on the list to receive e-mail notices for this case:

Pamela Chyba  
discoverthefraud@gmail.com

Jeffrey B Gardner  
Jeff.Gardner@sbgk.com,mary.do@sbgk.com

(FEDERAL) I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on June 6, 2016, at Carlsbad, California.

Carlsbad, California.  
  
Mary Do